

असाधारण

# **EXTRAORDINARY**

भाग II—ज्या 2
PART II—Section 2

प्राधिकार से प्रकाशित



₹(° 33] No. 33]

नई विल्ली, गुक्रवार, मई 8, 1992/वैशाख 18, 1914 NEW DELHI, FRIDAY, MAY 8, 1992/VAISAKHA 18, 1914

इस भाग में भिन्न पुष्ठ संख्या वी जाती है जिससे कि यह ग्रस्त संकलन के रूप में रखा जा सके । Separate paging is given to this part in order that it may be filed as a separate compilation.

#### LOK SABHA

The following Bills were introduced in Lok Sabha on 8th May, 1992:--

BILL No. 67 of 1992

A Bill to amend the All India Council for Technical Education Act, 1987.

BE it enacted by Parliament in the Forty-third year of the Republic of India as follows:—

1. This Act may be called the All India Council for Technical Education (Amendment) Act, 1987.

Short

2. In section 10 of the All India Council for Technical Education Act. 1987, for clause (k), the following clause shall be substituted, namely:—

Amendaments of Section 10.

"(k) grant or refuse to grant approval for starting new technical institutions and for introduction of new courses or programmes in consultation with the agencies concerned within a period of six months from the date of receipt of an application in this regard.".

# STATEMENT OF OBJECTS AND REASONS

The All India Council for Technical Education Act was enacted in the year 1987 with a view to proper planning and co-ordinated development of the technical education system in the country and for the regulation and proper maintenance of norms and standards for the technical education system. However, it has been observed that undue delay takes place in case of clearance of proposals, sent to the Council, for setting up new technical institutions or introduction of new courses or programmes.

Therefore, it is necessary that uncertainty and prolonged delay on the part of the Council over the grant of approval for starting new institutions should be removed. All applications received for this purpose should be disposed of within a period of six months of their receipt.

Hence this Bill.

New Delhi; February 28, 1992. ANNA JOSHI.

### BILL No. 65 of 1992

A Bill to regulate the migration of doctors and engineers to foreign countries.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:---

- 1. (1) This Act may be called the Doctors and Engineers (Regulation of Migration to Foreign Countries) Act, 1992.
  - (2) it extends to the whole of India.
  - (3) It shall come into force at once.
- 2. Notwithstanding anything contained in any other law for the time being in force, any citizen who takes admission to any engineering or medical institution awarding a degree in engineering or medicine, at the time of taking admission, shall fill a bond that he shall serve in the country for a minimum period of ten years after passing his final examination.
- 3. Any citizen who has obtained a degree in medicine or in engineering from an institution in the country, if desires to migrate to a foreign country before serving in the country for a period of ten years, he shall have to deposit a sum equal to five times the amount spent by the Government on his studies before migrating to the foreign country.

Short title, extent and commencement.

Bond to be filled by engineering and medical students.

Penalty in case of migration before serving for ten voars, Approval of Government for pursuing higher studies, etc. 4. Any citizen who has taken a degree in medicine or in engineering from any recognised institution in the country, if desires to go to a foreign country for pursuing higher studies or doing research work, he shall have to take prior permission from the Central Government in that regard:

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Provided that the permission shall be granted to the citizen by the Central Government to go to the foreign country for higher studies only on the condition that the citizen shall come back to the country after finishing his higher studies or research work to serve for a minimum period of ten years.

Provisions of Act not to apply in certain cases.

5. If any citizen, who has obtained a degree from any engineering or medical institution, is not provided with a suitable job by the Central Government or the State Government of the State of which he is a permanent resident within a period of one year of obtaining such degree, the citizen shall be permitted to migrate to a foreign country and the provisions of sections 3 and 4 shall not apply to him.

### STATEMENT OF OBJECTS AND REASONS

A large number of citizens who take their degrees in medicine and in engineering in the country migrate to the foreign countries in the hope of earning more money. They have no will to serve the country which has provided them all the facilities to become a doctor or engineer. This tendency of the engineering and medical graduates should be curbed putting suitable restrictions on their migration to the foreign countries,

Hence this Bill,

NEW DELHI;

KASHIRAM RANA.

March 5, 1992.

## BILL No. 64 of 1992

A Bill to provide for special educational facilities to children of economically backward parents.

BE it enacted by Parliament in the Forty-third year of the Republic of India as follows:—

Short title, extent and commencement.

- 1. (1) This Act may be called the Special Educational Facilities (For Children of Economically Backward Parents) Act. 1992.
  - (2) It extends to the whole of India.
  - (3) It shall come into force at once.
- 2. The children born of parents whose income is less than rupees one thousand per month shall be provided with free education from school level to the post graduate level and also in higher technical institutions including medical and engineering colleges.

Free education to children born of economically back-ward parents.

3. The children who are provided with free education under section 2 shall be provided with necessary books, hostel facilities, transportation, clothing and similar other facilities, free of cost, which are needed for education.

Provision of necessary books, etc. to children of economically backward parents.

4. The Central Government may make rules for carrying out the purposes of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

Promotion of education and establishment of a classless and creedless society is one of the basic aims of our Constitution. However, when majority of the population has not even the subsistence level income the chances of increasing literacy rate and the consequential benefits are not available to the society. It is, therefore, necessary that the Government should make provision for free educational facilities and provide books, hostel and transportation facilities free of cost to the children of such persons whose income is less than one thousand rupees per month so that they have better job opportunities and are able to raise their standard of living.

Hence this Bill.

NEW DELHI;

KASHIRAM RANA.

March 5, 1992,

## FINANCIAL MEMORANDUM

Clause 2 of the Bill envisages free education at all levels to children of economically backward parents. Clause 3 envisages books, hostel facilities, transportation and similar other amenities connected with education free of cost to such children. All these will involve a recurring expenditure of rupees ten crores per year from the Consolidated Fund of India.

No non-recurring expenditure is involved.

# MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. These rules will relate to matters of detail only. The delegation of legislative power, therefore, is of a normal character.

## BILL No. 84 of 1992

A Bill to provide for the setting up of adequate number of colleges in every district in the country.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the College Education Act, 1992.

Short title, extent and commence-

ment.

- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. In this Act, unless the context otherwise requires, "appropriate Defini-Government" means the Central Government in relation to Union tion. territories and the State Government in relation to a State.

3. The appropriate Government shall set up adequate number of colleges including medical and engineering colleges in every district of the country according to its population and requirement.

Setting up of colleges. Appointment of teachers and employees.
Affiliation of colleges to Universities.

- 4. The appropriate Government shall appoint teachers—and other employees and create necessary infrastructure for the efficient functioning of the colleges set up under this Act.
- 5. The colleges set up under this Act shall be affiliated to such University as the appropriate Government may deem fit.
- Power to make rules.
- 6. The Central Government may make rules for carrying out the purposes of this Act.

## STATEMENT OF OBJECTS AND REASONS

Education is one of the main human resources. Ever since we attained Independence, we have made much progress in educating our people. With the active participation of social welfare organisations, our Government has been able to increase the literacy rate over the years. We have set up many schools and colleges all over the country but they are not adequate. Many students leave their education half way when they find that they cannot afford to go to colleges as they are far off from their residences. Private colleges are coming up everywhere. They charge heavy capitation fees and poor parents are not in a position to send their wards to these colleges. Moreover, facilities in these colleges are inadequate. They exploit poor and innocent students.

Ours being a welfare State, it should give top-most priority to education. In order to help peor and bright students, the Government should come forward in setting up of adequate colleges and educational institutions.

The Bill seeks to achieve the above objectives.

New Delhi; March 12, 1992. P. VALLAL PERUMAN

#### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall set up adequate number of colleges in every district according to its requirements and population. Clause 4 provides that adequate teachers and other employees shall be appointed and necessary infrastructure shall be created for their efficient functioning. The Central Government shall bear the entire expenditure as far as Union territories are concerned in implementation of the provisions of the Bill. The expenditure shall be met out of their respective Consolidated Funds as far as the States are concerned. However, the Central Government may give financial assistance to State Governments for this purpose.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure to the tune of rupees twenty-five crores may be involved.

A non-recurring expenditure of about rupees two hundred crores is also likely to be involved.

# MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only and as such the delegation of legislative power is of a normal character.

# BILL NO. 85 OF 1992

A Bill to provide for reservation of posts for Scheduled Castes and Scheduled Tribes in higher category of posts in Government Services.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

- 1. (1) This Act may be called the Reservation of Posts for Scheduled Castes and Scheduled Tribes (In Government Services) Act, 1992.
  - (2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

- (a) "Government service" means service in connection with the affairs of the Union or of any State; and
- (b) "Higher category of post" means all Group A and Group B posts in the Government service and, where there are no such posts, the posts in the equivalent grades and includes all such posts as may be prescribed by rules made under this Act,

Short title, extent and commen-

cement.

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Percentage of vacancies reserved for Scheduled Castes an Scheduled Tribes.

- 3. (1) The number of posts reserved for Scheduled Castes and Scheduled Tribes in all higher category of posts shall be fifteen per cent. and seven and a half per cent. respectively of the total number of posts.
- (2) Upon the completion of each census, the percentage of posts reserved for Scheduled Castes and Scheduled Tribes shall vary according to the proportion of their population to the total population as recorded in that census.

Application of other laws not barred.

4. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules. 5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

## STATEMENT OF OBJECTS AND REASONS

At present, there is reservation for Scheduled Castes and Scheduled Tribes in Government services in lower and middle level posts only. There has been a great demand from several quarters for reservation of posts and appointments for them in senior positions also. In order to protect their interests and to boost their morale, it is proposed that fifteen per cent, and seven and half per cent. of the total number of posts at senior levels should be reserved for Scheduled Castes and Scheduled Tribes, respectively in Government services.

At present, reservation of posts for Scheduled Castes and Scheduled Tribes is based on their population which was recorded decades back. It is, therefore, proposed that there should be proportionate increase in the percentage of posts reserved for them according to the proportion of their population to the total population as recorded in every census.

The Bill seeks to achieve the above objective.

NEW DELHI;

P. VALLAL PERUMAN

March 12, 1992.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules to carry out the purposes of the Bill. Since the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

## BILL No. 76 of 1992

A Bill further to amend the Code of Civil Procedure, 1908.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (7) This Act may be called the Code of Civil Procedure (Amendment) Act, 1992.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and commencement,

5 of 1908.

2. For section 115 of the Code of Civil Procedure, 1908, the following section shall be substituted, namely:—

Substitution of new section for section 115.

"115. (1) The High Court, in cases arising out of the original sults or other proceedings in any subordinate court which are of the value of one

Revision. lakh rupees and above, and in any other case, the District Court, may call for the record of any case which has been decided by any court subordinate to such High Court or District Court, as the case may be, and in which no appeal lies thereto, and if such subordinate Court appears—

- (a) to have exercised a jurisdiction not vested in it by law, or
- (b) to have failed to exercise a jurisdiction so vested, or
- (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court or the District-Court as the case may be, may make such order in the case as it thinks fit:

Provided further that the High Court or the District Court shall not, under this section, vary or reverse any order including an order deciding an issue, made in the course of a suit or other proceeding, except where—

- (a) the order, if it had been made in favour of the party applying for revision, would have finally disposed of the suit or other proceeding, or
- (b) the order, if allowed to stand, would occasion a failure of justice or cause irreparable injury to the party against whom it was made.
- (2) The High Court or the District Court, as the case may be, shall not, under this section, vary or reverse any decree or order against which an appeal lies either to the High Court or to any Court subordinate thereto.
- (3) Nothing in this section shall prevent the High Court to call for the record of any case which has been decided by any Court subordinate to such High Court notwithstanding the value of the original suit or other proceedings.

Explanation.—In this section, the expression, "any case which has been decided" includes any order made or any order deciding an issue in the course of a suit or other proceeding.".

### STATEMENT OF OBJECTS AND REASONS

Under the provisions of the Code of Civil Procedure, 1908, a High Court is empowered to call for records of any case which has been decided by any Court subordinate to such High Court and if it appears that the subordinate court has exercised a jurisdiction not vested in it by law or failed to exercise jurisdiction or acted illegally or with material irregularity the High Court may make suitable order to correct the same. Since only High Courts are empowered to revise the order made in a suit by lower Courts, the litigant public are put to difficulties in as much as they have to approach the concerned High Court for seeking justice. It is a time consuming and costly affair. It is also a cumbersome procedure. It is accordingly proposed to provide the District Courts apart from High Courts with powers regarding revision of cases decided by lower courts. Such provision already exists in Uttar Pradesh and some other States.

Hence this Bill.

New Delhi; March 18, 1992. SRIBALLAV PANIGRAHI

## BILL No. 81 of 1992

A Bill to provide for the regulation of employment and conditions of service construction workers and for matters connected therewith.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

### CHAPTER I

# PRELIMINARY

Short title, extent and commencement,

- 1. (1) This Act may be called the Construction Workers (Regulation of Employment and Conditions of Service) Act, 1992.
  - (2) It extends to the whole of India.
- (3) Chapter I shall come into force at once and the rest of the provisions shall come into force on such date or dates as the appropriate Government may, by notification in the Official Gazette, appoint but no such appointed date shall be later than six months from the date of assent.

Declaration as to expediency of regulation. 2. It is hereby declared that it is expedient in the public interest that the construction work be declared as an industry, employing, as it does, a very large number of workers, both women and men and whose conditions of work and living need amelioration and to whom regularity of employment must be assured and regulated by law so that the Directive Principles of the Constitution more particularly the relevant provisions in articles 39, 41, 42, 43 and 43A of the Constitution are given effect to by a law made by Parliament with reference to entries 22, 23 and 24 of List III in the Seventh Schedule to the Constitution.

3. In this Act, unless the context otherwise requires,—

Definitions.

- (a) 'appropriate Government' means the concerned State Government or the Union territory Administration;
- (b) 'construction work' means the construction, alteration, repair, maintenance and/or demolition of—
  - (i) building;
  - (ii) any railway line or sidings;
  - (iii) docks, harbours, canals, dams, reservoirs, embankments including river valley projects, river works, water works, tanks and water courses for inland navigation;
  - (iv) rock tunels bridges, viaducts pipelines, aquaducts, scwage works, airfields, sea defence works and gas works;
  - (v) any other structural engineering work of steel or reinforced concrete structure;
  - (vi) construction operations connected with the installation of machinery wherever such installations take place in a factory or establishment or any engineering construction or in a mine;
  - (vii) any other civil or structural work similar to any of the aforesaid construction activities; and
  - (viii) any other operation such as stone breaking, earth brick making, or work in a brick kiln or lime kiln;
- (c) 'construction worker' means a person who is directly involved in any construction work and includes one who is indirectly involved in any activity ancillary or incidental to construction work but does not include a contractor by whatever name called;
- (d) 'establishment' means any establishment or industry engaged in any construction work;
- (e) 'employer' means any person who utilises construction labour for the purpose of construction work and includes any promoter of building activities, agent, contractor, or sub-contractor, by whatever name called who has undertaken the construction work on his own or on behalf of any person.
- 4. The provisions of this Act shall have effect notwithstanding anything inconsistent therein contained in any other law for the time being in force or in any contract or instrument having effect by virtue of any law other than this Act or any other decree or order of any Court, tribunal or authority.

Effect of law and agreements inconsistent with this Act.

5. For the purpose of the Act "may" means "shall", wherever it refers to some obligations to be discharged or power to be exercised.

Interpretation.

6. In this Act, notwithstanding anything contained in the Indian Evidence Act, 1872, the burden of proof that compliance with he provisions of this Act and the Scheme have been effected shall be entirely on the employer and the different Board wherever, applicable.

burden of proof on em-

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J of 1872.

Principles to be adopted in the application of the Act.

7. In implementing the provisions of this Act, the authorities constituted under this Act shall strive to apply as the situation may require the principles contained in articles 41, 42, 43, 43A and 46 of Part IV and clauses (h) and (j) of article 51A of Part IVA of the Constitution.

### CHAPTER II

CONSTITUTION OF CONSTRUCTION LABOUR BOARDS AND FRAMINGG OF SCHEMES

Constitution of Central Construction Labour Board.

- 8. (1) The Central Government shall, by notification in the Official Gazette, establish a Central Construction Labour Board, hereinafter to be known as the 'Central Board' consisting of a Chairman and such number of members as may be prescribed representing the State Governments by rotation, Union Ministries/Departments, experts in the field of labour welfare and employers.
- (2) The Chairman shall be appointed by rotation from any of the members of the Board and the term of the Chairman shall be two years.
- (3) The Board shall have such number of members as may be prescribed representing construction workers who shall be not less than the total strength of members representing employers and State Governments.

Constitution of State and Union territory Construction Labour Board.

- 9, (7) The Central Government shall, by notification in the Official Gazette, establish a Construction Labour Board in every State and Union territory, hereinafter to be known as 'State Board' and 'Union territory Board', respectively.
- (2) The State Board or the Union territory Board, as the case may be, shall consist of a Chairman and such number of members as may be prescribed representing construction workers, employers, experts in the field of labour welfare are and one representative from the Central Government.
- (3) The Chairman of the State Board or the Union territory Board shall be appointed from any of the members of the concerned Board annually on rotation basis.

Constitution of District Boards,

- 10. (1) The appropriate Government shall after consulting the concerned Board, by notification in the Official Gazette and subject to condition of prior publication, establish a Construction Labour Board in every district to be known as District Board'.
- (2) The District Board shall consist of a Chairman and such number of members as may be nominated by the State Board representing employers, experts in the field of labour welfare, one representative each from the concerned State Government and the Central Government and construction workers elected by the registered construction workers:

Provided that women construction workers shall have proportionate representation among representatives of construction workers.

11. The term of members of all the Boards established under this Act shall be for a period of three years.

Terms of office of members of Boards 12. (1) The appropriate Government may, in consultation with its Construction Labour Board and after consulting the Central Government, frame a scheme or schemes to be called the "Construction Workers (Regulation of Employment and Conditions of Service) Scheme, 1992" for ensuring greater regularity of employment, for regulating the employment of construction workers and for prescribing conditions of service of the construction workers covered by the scheme.

for ensuring regular employment of workers.

- (2) The Schemes may be for a specified area and/or for a specified category of construction workers or for the whole State/Union territory and for all categories of workers.
  - (3) In particular, the Scheme may provide for any or all of the following:
  - (a) for the application of the Scheme to such classes of construction workers and employers as may be specified therein;
  - (b) for regulating employment in the construction industry and providing benefits to workers;
  - (c) for laying down norms for the discharge of statutory obligation by employers and construction workers;
  - (d) for registration of construction workers and employers, including maintenance of registers and the removal, either temporarily or permanently of names of the workers or the employers from the registers and the imposition of fees for registration;
  - (e) for regulating the employment of construction workers and the terms and conditions of such employment, including rates of remuneration, hours of work and conditions as to holidays, and pay in respect thereof;
  - (f) for providing for a minimum payment to workers who are available for work in respect of periods during which full employment, or even part employment, is not available;
  - (g) for prohibiting, restricting or otherwise regulating the employment of construction workers who are not registered workers and the employment of construction workers by employers who are not registered employers:
  - (h) for exempting any self-employed construction workers from the purview of the Scheme on such terms and conditions as the Board may lay down:
- (i) for creating such fund or tunds as may be necessary or expedient for the purposes of social security and other welfare benefits and for the administration of such tund or funds;
  - (i) for training and imparting skills to construction workers;
  - (A) for the welfare of the officers and other staff of the State Board and District Boards;
  - (1) for health and safety measures in places where construction workers are employed;
  - (m) for formulating the manner in which, and the persons by whom, the cost of operating the Scheme and the functions of the Boards is to be defrayed: and

- (n) for formulating appropriate provisions for taking disciplinary action if necessary against the functionaries of the Boards and its bodies.
- (4) The Scheme may further provide for the consequences and penalties for contravention of any provisions of the Scheme.
- (5) In framing the scheme, the appropriate Government shall keep in view the provisions of the model scheme as may be framed by the Central Government, and ensure that the provisions of the scheme framed are not inconsistent with or less beneficial to the construction workers that the provisions of the model scheme.

Variation and revocation of Schemes.

- 13. (1) The appropriate Government may, by notification in the Official Gazette, amend, alter or vary the Scheme or Schemes made by it for the purposes of more effective implementation of the Scheme or Schemes having regard to any special condition obtaining in the State and/or for conferring additional benefits to the construction workers.
- (2) Such amendments alterations or variations of the Scheme or Schemes may be effected in consultation with the Central Construction Labour Board.
- (3) Pending the formulation and final publication of the Scheme or Schemes by the State Government, the provisions of the model Scheme or Schemes as may be framed by the Central Government shall be applicable in that State.

Functions of the Boards.

- .14. (1) The Central Construction Labour Board shall be a coordinating and advisory body without executive functions and the entire expenditure of the Central Board shall be borne by the Central Government,
- (2) The Construction Labour Boards set up in a State or in a Union territory shall be responsible for administering the schemes and shall exercise such powers and perform such functions as may be conferred on them by the Schemes.
- (2) Such amendments, alterations or variations of the Scheme or Schemes and the concerned State Board or Union territory Board may issue such directions in this regard as it may deem fit.

### CHAPTER III

DISPUTE RESOLUTION BODIES AND THEIR CONSTITUTION

Resolution of Disputes.

15. All disputes arising out of the enforcement of the provisions of this Act and the scheme shall be resolved only by Dispute Resolution Councils and other authorities duly constituted under this Act.

Constitution of Dispute Resolution Councils.

- 16. (1) There shall be set up a Dispute Resolution Council, hereinafter to be known as the 'Council', in every district consisting of members with legal background representing the State Government, the construction workers and the employers.
- (2) The term of office of the members of the council shall be three years and the members shall be nominated by the State Board.

Appellate Authority.

17. (1) There shall be established in every State and Union territory an Appellate Authority, hereinafter to be known as the 'Authority', consisting of such number of members as may be deemed necessary by the concerned State Board.

- (2) The term of the members of the Authority set up under sub-section (1) shall be three years.
- 18. (1) Where the District Board is of the opinion that a dispute exists or is apprehended it may at any time, by order in writing—

Reference of disputes.

Procedures and

powers of

Councils, and

Appel-

late Authorities.

- (a) refer the dispute to the State Board for a settlement thereof; or
- (b) refer any matter appearing to be connected with or relevant to the dispute to a Council for inquiry or for resolution of the dispute as provided in the Scheme.
- (2) No proceedings pending before a Council or the Authority in relation to a dispute shall lapse merely by reason of the death of any of the parties to the dispute and such Council or Authority shall complete such proceedings and submit its award to the State Board.

#### CHAPTER IV

# PROCEDURE, POWERS AND DUTIES OF AUTHORITIES

- 19. (1) Subject to any rules that may be made in this behalf, the Council or Authority shall follow such procedures as may be prescribed.
- (2) Every Council or the Authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when adjudicating a dispute in respect of the following matters, namely:—

(a) enforcing the attendance of any person and examining him on oath;

- (b) compelling the production of documents and material objects;
- (c) issuing commissions for the examination of witnesses; and
- (d) in respect of such other matters as may be prescribed, and every enquiry or investigation by a Council or an Authority shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code.

45 of 1860,

- (3) Every document in relation to a dispute as above, shall be a public document within the meating of section 76 of the Indian Evidence Act, 1872 and a person interested in the dispute and/or his authorised representative shall have a right to obtain coples of such documents.
- (4) The Council may enforce the attendance of any person for the purpose of examination of such person or call and inspect any document which it has ground for considering to be relevant to the implementation of any award or to carrying out any other duty imposed on it under this Act.
- (5) All members of the Council and the presiding officers of a Council or an Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.
- (6) Subject to any rules made under this Act, the costs of, and incidental to, any proceedings before a Council shall be in the discretion of that Council, which shall have full power to determine by whom, to whom and to what extent and subject to what conditions, if any, such costs are to be paid, and to give all

5 of 1908,

45 -4 1940

1 of 1872.

45 of 1860

necessary directions for the purposes aforesaid and such costs may on application made to the appropriate Board, by the person entitled, be recovered by the appropriate Government in such manner as it deems appropriate.

(7) Every Council shall be deemed to be a civil court for the purposes of sections 345, 346 and 348 of the Code of Criminal Procedure, 1973.

2 of 1974.

(8) A person aggrieved by any decision of the Council may make an application to the authority within a period of one month from the date of such decision.

#### CHAPTER V

#### MISCELLANEOUS

kar of jurisdiction of civil and labour courts.

24 (0 10)

20. No civil or labour court shall entertain a suit or an application in respect of any matters arising under this Act or the Scheme.

Publishment for not assisting authorities under the Act.

- 21. (1) Whoever obstructs any person who is designated as Labour Officer by the State Board or any person appointed under this Act or Scheme (acremater referred to as the authorised person) in the discharge of his duties under this Act or refuses or wilfully neglects to afford the Labour Officer or the authorised person any reasonable facility for making any inspection examination, inquiry or investigation authorised by or under this Act in relation to an establishment to which, or a contractor to whom, this Act applies, shall be punishable with imprisonment for a term which may extend to two years, or with a fine which may extend to two thousand rupees, or with both
- (2) Whoever wilfully refuses to produce on the demand of any Labour Officer or authorised person any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by any Labour Officer or authorised person acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to two years, or with a fine which may extend to two thousand rupees or with both.
- (3) Such obstruction or wilful refusal as provided under sub-section (2) shall at once be reported to the Board within whose jurisdiction such obstruction wilful refusal takes place, and to the State Board.

Punishment,

- 22. (1) Notwithstanding anything in sub-section (4) of section 12, whoever contravenes any provision of this Act or of any rules made thereunder regarding the employment of construction workers, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees, or with both, and, in the case of continuing contravention, with an additional fine which may extend upto one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.
- (2) If any person contravenes any of the other provisions of this Act or any rules made thereunder, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both

23. (1) Where an oftence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall reuder any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwinstanding anything contained in sub-section (2), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
  - (b) "director', in relation to a firm, means a partner in the firm.
- 24. (1) Every offence punishable underthis Act and the scheme shall be a cognisable offence and tried only by a Judicial Magistrate of the first class of the areas concerned,

Cognisance of offences.

- (2) Whenever any contravention of the provisions of the Act and Scheme takes place, the Labour Officer of the Board or any person aggrieved by such contravention may in writing complain to the Magistrate for taking cognisance of the offence.
- (3) Whenever a Labour Officer without sufficient reason refuses or fails to make a complaint of such a contravention, the Board may suo moto or on a report from the person aggrieved, make a report to the Magistrate in writing to take cognisance of the offence:

Provided that nothing in this section shall prevent the Board to take any disciplinary action as it may deem fit against the Labour officer.

25. (1) The Central Government may make rules for carrying out the purposes of this Act.

Power to make

- (2) Without prejudice to the generality of the forgoing power, such rules may provide for the following matters, namely:—
  - (a) the election of registered construction workers;
  - (b) health, safety and medical facilities, social security and maternity benefits and construction workers' welfare funds;
  - (c) enforcement of the provisions of the Act and the Scheme, including machinery for such enforcement;

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(d) provisions in regard to creches, education and such other social welfare benefits for children of construction workers.

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- (e) the conditions of service including recruitment, pay, allowances, tenure, discipline and appeal, retirement benefits of various categories of employees of the Boards and their welfare;
- (f) the remuneration of honorarium payable to the Chairman and other office bearers of the Boards;
- (g) provisions for leisure time activities, recreation, library and imparting of education including legal education to construction workers;
  - (h) any other matter which is required to be, or may be, prescribed.

## STATEMENT OF OBJECTS AND REASONS

There are nearly two crores of construction workers in India. The construction industry employs, next only to agriculture, the largest number of workers in our country. This industry covers a variety of workers and operations ranging from construction of dams, power houses, defence projects and bridges, harbours, roads, railway tracks and runways, to factories and offices, schools, hospitals, hotels and all other residential buildings. These activities extend over the entire length and breadth of India.

Construction has been an age old industry in our country. The superb monuments found all over the country are symbols of a civilization built by the blood and sweat of the toiling people. Since independence various developmental works like dams, roads, industries and bridges have been built and crores of rupees have been spent through budgetary provisions and five-year plans. However, the quality of life of the workers involved in all these developmental activities is appalling. They have no security of employment. They get very low wages. They have no educational, housing or other social welfare facilities. Accidents are very frequent while medical facilities are almost nil. Neither are safety measures enforced nor is any compensation paid to the victims of accidents.

Unlike the organised industrial sector, there is no fixed employment relationship in the construction industry. The peculiar nature of the construction industry is in its changing employer-employee relationship. In the construction industry, the product of labour is stationary whereas the contractors, sub-contractors and workers move to different locations to work for different principal employers. In addition thereto, in the construction industry, there is a hierarchy of relationships. The employment is contractual, most often on a sub-contract basis, and is unregulated by any existing law. Thus, to ensure security of employment and protection of workers, it is imperative to regulate employment in the industry.

Though various labour laws enacted to protect labour, such as the Minimum Wages Act, Contract labour (Regulation and Abolition) Act, etc. are sought to be applied to construction labour, they are not capable of being implemented due to the changing employer-employee relationship, inadequacy of labour law administration and the lack of provisions to involve workers, in the implementation or to protect them against victimisation.

Though social security laws such as the Payment of Gratuity Act, etc., have been sought to be extended to the construction industry, constraints in their application have been experienced due to lack of continuity of emloyment the changing employer-employee relationship and the total lack of records pertaining to details of employment.

Thus, the major contributing cause to this state of affairs is the total inapplicability of the normal type of labour laws to the situation obtaining in the construction industry. The beneficiaries of the labour of construction workers, have thus a collective obligation to meet the human needs of those, the fruits of whose labour benefits the people at large. If the benefits of labour

legislation are to reach this large mass of workers, it is then necessary that the law should take note of the unique features of the industry and should provide not merely for welfare of the workmen, but also for the regulation of employment itself in the industry. Such regulation could not be left to be taken care of by the employers or by the administrative hierarchy, but must be entrusted to an autonomous body statutorily set up and consisting of representatives of the workers, Government and the employers. The Dock Labour Boards which are analogous provide useful examples.

The proposed law intends to incorporate the following features based on the above stated nature of employment in construction industry:—

- (a) compulsory registration of the employers and of the workers:
- (b) restriction on employment in the industry to only those workers who are registered under provisions of the proposed legislation;
  - (c) Prohibition of construction work by unregistered employers;
- (d) equitable sharing of the available employment, category-wise, on the basis of rotational booking of workers;
- (e) vesting of the responsibility for determining wages and their disbursement in the autonomous body; and
- (f) provision for various other entitlements including social security and a minimum guarantee of wages by the autonomous body.

The Bill seeks to achieve the above objectives.

New Delhi;

HANNAN MOLLAH.

March 26, 1992

### FINANCIAL MEMORANDUM

Clause 8 of the Bill provides for the constitution of the Central Construction Labour Board. Clause 9 provides for the constitution of State/Union territory Construction Labour Boards. Clause 10 provides for the constitution of District Construction Labour Boards. Clause 12 provides for framing of a Scheme for ensuring regular employment of construction workers and their welfare. Clause 14 provides that the entire expenditure of the Central Construction Labour Board shall be borne by the Central Government. Clause 15 provides for the constitution of Dispute Resolution Councils in every district in the country, Clause 17 provides for establishment of an Appeliate Authority in every State and Union territory. Clause 25 provides for framing of rules in respect of welfare of construction workers, etc. The Bill, therefore will involve expenditure from the Consolidated Fund of India, in respect of Central Construction Labour Board and implementing the provisions of the Bill in Union territories. The State Governments will incur expenditure from their respective Consolidated Funds in giving effect to the provisions of the Bill.

It is estimated that an annual recurring expenditure of rupees twenty five lakhs is likely to be involved.

A non-recurring expenditure of about rupees five lacks is also likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 empowers the appropriate Government to frame a Scheme for ensuring regularity of employment to construction workers and for their welfare. Clause 25 empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

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# BILL No. 83 or 1992

A Bill further to amend the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Act, 1992.

Amendment of section 6A. 2. In section 6A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, after sub-section (1), the following sub-section shall be inserted, namely:—

19 of 1952.

- "(1A) Without prejudice to the generality of the power to frame the scheme under sub-section (1), in the event of death of an employee, the family pension shall be payable—
  - (a) to the wife or the husband, as the case may be, of the employee, upto the date of death or remarriage of the beneficiary whichever is earlier;

- (b) failing (a), to the eldest surviving minor son of the employee until he attains the age of twenty-one years;
- (c) failing (a) and (b), to the eldest surviving unmarried daughter of the employee until she attains the age of twenty-four years or marries whichever is earlier:

Provided that in case of death of an unmarried employee, the family pension shall be payable to the father of the employee and on the death of the father or his remarriage, whichever is earlier, to the mother of the employee till her death or remarriage, whichever is earlier.".

### STATEMENT OF OBJECTS AND REASONS

The Employees' Family Pension Scheme was framed in the year 1971 under the power derived from section 6A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Under the Scheme, family pension is payable to the wife or the husband of the deceased employee or to his minor children. However, there is no provision for payment of family pension to the parents of the unmarried deceased employee. There have been cases wherein young unmarried employees, who were the sole earning member and on whom their parents depended, died and their parents were deprived of family pension under the Act although they got compensation under the Workmen's Compensation Act, 1923.

Therefore, it is in the fitness of the things that family pension under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, should be paid to the parents of such employees who die while they are unmarried.

The Bill seeks to achieve this objective.

NEW DELHI;

KASHIRAM RANA

April 1, 1992.

## FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that in the event of death of an married employee the family pension shall be payable to the parents of that employee. The Central Govornment will have to incur expenditure from the Consolidated Fund of India in respect of payments of family pension in case of death of unmarried employees working in establishments under the Control of Central Government. It is likely to involve an annual recurring expenditure of about rupees one crore from the Consolidated Fund of India. No non-recurring expenditure is likely to be involved.

## BILL No. 80 of 1992

A Bill to provide for a permanent residence for persons holding high offices under the Government of India

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Official Residence for Dignitaries Act, 1992.

Definition. 2. In this Act, the term "dignitaries" means the President of India, the Vice-President of India, the Prime Minister and other members of the Union Council of Ministers.

3. (1) The Central Government shall construct a new housing complex or shall convert some suitable existing building to house the dignitaries.

(2) The housing complex shall be used as the permanent official residence for the dignitaries.

Permanent official residence for the dignitaries.

4. The dignitaries shall be provided with suitable residential accommodation commensurate with the office they hold.

Suitable accommodation for dignitaries.

5. In the complex housing the dignitaries, sufficient accommodation shall also be provided for the stay of the foreign dignitaries as State guests.

Accommodation for foreign guests.

6. On laying down office the residential accommodation occupied by the dignitaries shall be vacated by them within such period as may be prescribed.

Vacation of accommodation.

7. The Central Government may make rules for carrying out the purposes of the Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

The Rashtrapati Bhavan, New Delhi is being used as official residence of the President of India. However, there is no permanent official residence for the Prime Minister and other members of the Union Council of Ministers.

There are many different houses which have been occupied by the successive Prime Ministers and other members of the Council of Minister. Whenever a Minister moves into a new house, renovation of that house requires a lot of expenditure to be made to make the accommodation suitable for him. All these houses are spread over in different areas and as such a lot of expenditure is incurred on providing security to these dignitaries. If all the dignitaries are housed in one complex, it will reduce the expenditure required to be made on renovation of different houses and will also reduce the expenditure made on providing security to them.

The Bill, therefore, provides for the construction of new complex for housing the dignitaries or for the conversion of an existing suitable building or complex to house the dignitaries. For example, Rashtrapati Bhavan which consists of many rooms and which remain vacant for most of the time can be converted into a suitable residential complex to house all the dignitaries.

The Bill seeks to achieve the above objective.

New Delhi;

April 1, 1992

KASHIRAM RANA

#### FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the construction of a new housing complex or for the conversion of some suitable existing building to house the dignitaries. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees fifty lakhs per annum.

A non-recurring expenditure of about rupees twenty lakhs is also likely to be involved.

# MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

### BILL No. 86 of 1992

A Bill to provide for protection and welfare of unorganised labour and for matters connected therewith.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short title and commen\_ cement

- 1. (1) This Act may be called the Unorganised Labour Welfare Act, 1992.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

- 2. In this Act, unless the context otherwise requires,—
- (a) "appropriate Government" means the Central Government or the State Government, as the case may be;
- (b) "employer" means any person who employs, whether directly or indirectly or through another person, whether on behalf of himself or any other person, one or more employees in an industry or factory

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16 of 1926.

or establishment, where there is no trade union and includes any other work or process as may be prescribed;

- (c) "prescribed" means prescribed by rules made under this Act;
- (d) "trade union" means all labour unions which have been recognised by or under the authority of the Trade Unions Act, 1926; and
- (e) "unorganised 'abour' means any class of persons employed for hire or reward to do any work, skilled or unskilled, manual or clerical including those employed in printing, hotel, leather factories, agriculture, etc. where there is no trade union and include any class of out-workers to whom any articles or materials are given by another person to be made up, cleaned, printed, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of trade or business of that other person and where the processing to be carried out either in the house of the out-workers or in some other premises not being premises under the control and management of that other person and also includes such other labour as may be prescribed.
- 3. (1) Every employers shall pay to every unorganised labourer, employed by him, such minimum wages as may be prescribed:

Provision of minimum wages.

Provided that different minimum wages may be prescribed for different types of work performed by the unorganised labour.

- (2) The minimum wages referred to in sub-section (1) shall be revised after every six months in such manner as may be prescribed.
- 4. (1) No unorganised labourer shall be required to work for more than eight hours, with half-an-hour rest, in a day.

Hours of work.

- (2) Where, an unorganised labourer works in any employment for more than eight hours, on any day or for more than forty-eight hours in any week, he shall, in respect of such period as is beyond his scheduled hours of work, be entitled to such wages as may be prescribed.
- 5. Any person violating the provision of sections 3 and 4 shall be punished with imprisonment which shall be not less than five years and also with fine which shall be not less than five thousand rupees.

Punishment.

6. (1) The appropriate Government shall conduct a district-wise trlennial census of unorganised labour.

Census of unorganised labour.

- (2) The census shall be conducted in such manner and shall contain such information as may be prescribed.
- 7. (1) The appropriate Government shall provide better employment opportunities to the unorganised labour including employment in organised sector.
- (2) The appropriate Government shall take into consideration the information collected through the census referred to in section 6 while providing better employment opportunities to the unorganised labour.

Better employment facilities to unorganised labour.

Compulsory insurance.

- 8. (1) Every employer shall compulsorily insure every unorganised labour employed by him against accident at the place of work.
  - (2) The amount of insurance shall be such as may be prescribed.

Establishment of Unorganised Labour Welfade Fund.

- 9. (1) There shall be established a fund in every State and Union territory to be known as the Unorganised Labour Welfare Fund by the appropriate Government.
- (2) The Central Government and the State Governments shall contribute to the Fund in such ratio as may be prescribed.
- (3) Every employer shall contribute to the Fund a sum equal to ten per cent. of the total wages paid to the unorganised labour employed by him.

Utilisation of Fund.

- 10. The fund established under section 9 shall be utilised for the following purposes, namely:—
  - (i) opening of schools for the unorganised labour and their children for the purpose of imparting functional educational and for the supply of free books, stationery, etc. to them;
    - (ii) proper housing facilities to unorganised labour;
    - (iii) medical care to the unorganised labour; and
  - (iv) such other material assistance to the unorganised labour as may be prescribed.

Power to make rules.

- 11.(1) The Central Government may, by notification in the Central Gazette, make rules for carrying out the purposes of the Act.
- (2) Without prejudice to the generality of the foregoing power, such rules may—
  - (a) prescribe the wages to be paid to unorganised labour including the wages for over-time work;
  - (b) prescribe the manner and mode of payment of minimum wages to the unorganiser labour;
    - (c) prescribe the manner of revision of minimum wages;
  - (d) prescribe the authority and the manner for conducting the triennial census.
  - (e) prescribe the manner for providing the unorganiser labour with better employment opportunities; and
    - (f) provide for any other matter which is to be or may be prescibed.

## STATEMENT OF OBJECTS AND REASONS

A large section of our population works as unorganised labour in various fields like agriculture, hotels, etc. Although, they are contributing in the economic development of the country, it is unfortunate that neither the State nor their employers have evolved any comprehensive welfare schemes for their socio-economic upliftment. On the other hand, rich farmers, landlords, contractors, etc. take advantage of their weak socio-economic position and thus exploit the situation by engaging them in various works on meagre wages. In the absence of payment of proper wages, they form a considerable part of our population which lives below the poverty line. Workers in the organised sector enjoy certain benefits like provident fund, gratuity, minimum wages, medical facilities, etc. and can force the employers through their respective trade unions to accede to their demands. But, workers in the unorganised sector, in the absence of trade unions, cannot assert their genuine rights.

It is, therefore, imperative that a law should be made to protect the rights of the unorganised labour.

The Bill seeks to achieve the above objectives.

NEW DELHI;

DWARKA NATH DAS

April 7, 1992.

#### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that every employer shall pay to every unorganised labour employed by him, such minimum wages as may be Clause 6 provides that the appropriate Government shall conduct a district wise triennial census of unorganised labour. Clause 7 provides for better employment opportunities to the unorganised labour including employment in organised sector by the appropriate Government. Clause 8 provides for compulsory insurance of every unorganised labour by his employer. Clause 9 provides for establishment of the ment. Clause 8 provides for compulsory insurance of every unorganised the appropriate Government. As far as the implementation of the provisions of the Bill in the States is concerned, the expenditure shall be borne by the respective, States. The Central Government shall have to incur some expenditure for carrying cut the provisions of the Bill in respect of Union territories. The Central Government may also have to provide some financial assistance to the States for carrying out provisions of the Bill.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees fifty crores per annum.

It is also likely to involve a non-recurring expenditure of about rupees ten crores.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules to be made will relate matters of detail only, the delegation of legislative power is of a normal character.

# BILL No. 39 of 1992

A Bill to provide for protection and welfare of extra garden labour and for matters connected therewith.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Ex-Tea Garden Labour Welfare Act, 1992.

Short title and commencement.

- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
  - 2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "ex-tea garden labour" means any labourer, above the age of eighteen years, who had to leave his job as labour in any tea garden on account of retrenchment or otherwise but not voluntarily;

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- (b) "prescribed" means prescribed by rules made under this Act;
  - (c) "sick tea garden" means any tea garden-
  - (i) which has been making losses for more than three years; or
  - (ii) in which the yield of tea during the last three years has been lower than such yield as may be prescribed; and
- (d) "tea garden" means any land used for growing tea irrespective of the area of that land.

Survey of ex-tea garden labourers.

- 3. (1) The Central Government shall conduct survey of-
  - (a) all ex-tea garden labourers;

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(b) all ten gardens including sick ten gardens,

within one year of the coming into force of this Act.

- (2) The survey shall be conducted in such manner as may be prescribed.
- (3) A report based on the survey conducted under sub-section (1), containing such particulars regarding ex-tea garden labourers, as may be prescribed, shall be prepared and presented to the Central Government.

Employ\_ ment facilities.

- 4. (1) The Central Government shall, after taking into consideration the report of the survey, provide suitable employment including self-employment opportunities in small scale industries including cottage industries and in such other fields, as may be prescribed, to the ex-tea garden labourers.
- (2) Any ex-tea garden labourer who is not provided with employment or self-employment opportunity within one year of the completion of the survey shall be given such amount of unemployment allowance per month as may be prescribed.

Revival of sick teagardens. 5. The Central Government shall, after taking into consideration the report of the survey, take all such steps as are necessary for the revival of the sick tea gardens.

Ex-Tea Garden Labour Welfare Fund.

- 6. (1) The Central Government shall establish a fund to be known as Ex-tea Garden Labour Welfare Fund.
- (2) The Central Government and State Governments shall contribute to the fund in such ratio as may be prescribed!

Utilisation of the Fund.

- 7. The Fund established under section 6 shall be utilised for the following purposes, namely:—
  - (a) life insurance of ex-tea garden labourers;
  - (b) free medical care of the ex-tea garden labourers:

- (c) financing the ex-tea garden labourers seeking self-employment;
- (d) providing unemployment allowance to ex-tea garden labourers; and
- (e) such other assistance to the ex-tea garden labourers as may be prescribed.
- Government may, by notification in the Official 8. The Central Gazette, make rules for carrying out the purposes of the Act.

9. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power. to make rules.

Act to have overriding effect.

## STATEMENT OF OBJECTS AND REASONS

A large number of labourers who used to work in various tea gardens in the country have become unemployed due to recession, retrenchment, etc. in the tea gardens. These labourers are living in miserable condi-It is, therefore, necessary that the Central Government should provide them employment in other related fields. Moreover, the Central Government should take steps for the revival of sick tea gardens so that ex-tea garden labourers can again be employed in these tea gardens.

Hence this Bill.

New Delhi; April 7, 1992.

DWARKA NATH DAS

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall conduct a survey of all ex-tea garden labourers and also of all tea gardens including sick tea gardens. It also provides for the preparation of report based on the survey. Clause 4 provides that the Central Government shall provide suitable employment including self-employment opportunities to all ex-tea garden labourers. It further provides that any ex-tea garden labourer who is not provided with employment or selfemployment facility within one year of the completion of the survey shall be given such unemployment allowance as may be prescribed. Clause 5 provides for taking of such steps by the Central Government as may be prescribed for the revival of sick tea gardens. Clause 6 provides for the establishment of a Ex-Tea Garden Labour Welfare Fund.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees twenty crores per annum.

It is also likely to involve a non-recurring expenditure of about rupees five crores.

# MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules to be made will relate to matters of detail only, the delegation of legislative power is of a normal character.

# Bill No. 90 of 1992

A Bill to provide for equal pay and perks for agricultural labourers both men and women, and for matters connected therewith or incidental thereto.

Br it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the Agricultural Labour (Equal Pay for Men and Women) Act, 1992.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint.

Short title, extent and commence-

ment.

Definitions.

- 2. In this Act, unless the context otherwise requires,—
  - (a) "agricultural labour" means persons engaged in any of the agricultural operations and whose only source of income is the wages earned by them from such work;

- (b) "agricultural operation" means any work relating to agriculture, horticulture, rearing of sheep, cattle, poultry or the work ancillary thereto or any other work connected with agriculture;
- (c) "Director-General" means the Director-General of Agricultural Labour appointed under section 5;
- ('d) "employer" means a person who employs agricultural labour; and
  - (e) "prescribed" means prescribed by rules made under this Act.

## CHAPTER II

## MINIMUM WAGES FOR AGRICULTURAL LABOUR

Minimum wages for agricultural labour.

3. (1) The Central Government may, by order published in the Official Gazette, fix the minimum wages and perks for the agricultural labour:

Provided that the minimum wages fixed may be different for different States:

Provided further that there shall be no discrimination in wages payable to men and women agricultural labourers in respect of similar nature of work performed by them.

(2) The Central Government may by notification in the Official Gazette, revise the minimum wages payable to agricultural labour from time to time in such manner  $a_8$  may be prescribed.

Saving of existing orders,

4. All orders in respect of wages of agricultural labour in force immediately before the commencement of this Act shall, so far as they are not inconsistent with the provisions of this Act, continue to be in force and shall be deemed to have been made under this Act.

Appointment of Director-General of Agricultural Labour and his functions.

- 5. (1) The Central Government shall appoint a Director-General of agricultural Labour for the purposes of this Act.
- (2) The Director-General shall advise the Central Government in the formulation of minimum wages and perks for agricultural labourers and the manner of their disbursement among men and women agricultural labourers equally.
- (3) The Central Government may, by order published in the Official Gazette, direct that any power exercisable by it under this Act may also be exercised, in such cases and subject to such conditions, by the Director-General or such other officer subordinate to the Director-General as may be specified in the Order.

#### CHAPTER III

#### REGISTRATION OF EMPLOYEES AND AGRICULTURAL LABOUR

- 6. (1) All employers and agricultural labour shall register themselves with the Director-General in such manner as may be prescribed.
- (2) Every employer who is registered under sub-section (1) shall be given a licence with a code number.

Registration of employers and agricultural labour.

7. Where any employer has contravened any provision of this Act or if the Director-General has reason to believe that any employer has contravened any provision of the Act, the Director-General may suspend or cancel the employer's licence after giving the employer reasonable opportunity for making a representation in writing within a rasonable time.

Suspention and cancellation of licences.

8. The Central Government may levy such amount as fees as may be prescribed for registration of the employers.

Fees for registration.

#### CHAPTER IV

### MISCELLANEOUS

9. On an application made by any person in writing that any employer has contravened any provision of this Act, notwithstanding the provisions of section 7, the Director-General or subject to such limits as may be prescribed, such officer as the Central Government may, by notification in the Official Gazette, authorise in this behalf, may give such decision or pass order including ordering of confiscation of any goods or property of the employer as may be prescribed.

Adjudicating Authority to pass order.

10. Any employer aggrieved by any decision or order made under this Act may prefer an appeal—

Appeal.

- (a) where the decision or order has been made by the Director-General, to the Central Government;
- (b) where the decision or order has been made by an officer subordinate to the Director-General, to the Director-General or to any officer superior to the officer authorised by the Director-General to hear the appeal.

within a period of forty-five days from the date of the decision or the order as the case may be.

11. The Central Government, in the case of any decision or order made by the Director-General, or the Director-General in the case of any decision or order made by an officer subordinate to him, may call for and examine the  $\operatorname{record}_S$  and may modify or revoke the decision or order.

Revision,

12. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

# STATEMENT OF OBJECTS AND REASONS

It is a fact beyond doubt that equal remuneration and perks to men and women agricultural labourers are not given throughout the country although in the Constitution of India it is provided that equal pay will be given for equal work. But the women agricultural labourers are the worst sufferers and they are given lesser pay and perks than their male counterparts engaged in the agricultural operations.

It is, therefore, considered necessary to enact a law to bring an end to this anomaly. Moreover, at present different wages are paid by different employers. It should be ensured that minimum wages to be fixed by the Central Government are paid to agricultural labour by the employers.

The Bill seeks to achieve these objectives.

NEW DELIU;

SURYAKANTA PATIL

April 6, 1992.

### FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the appointment of Director-General of Agricultural Labour by the Central Government. Clause 6 provides for registration of employers and agricultural labour. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India.

It is estimated that an annual recurring expenditure to the tune of rupees ten lakhs is likely to be involved.

A non-recurring expenditure of about rupee five lakhs is also likely to be involved.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

C. K. JAIN, Secretary-General.